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William H Bollman Manelli Selter PLLC 2000 M Street, N.W. 7th Floor Washington, DC 20036-3307			EXAMINER BATES, KEVIN T	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RUDY G. BONEFAS, RICHARD K. SOBCHAK, and
JAMES M. ZOMBEK

Appeal 2009-013169
Application 09/723,285
Technology Center 2400

Before ERIC S. FRAHM, DAVID M. KOHUT, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

FRAHM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE¹

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-55, all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

Exemplary Claim

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below with *emphasis* and lettered bracketing added:

1. A method of sending an alert to selected client devices in a communications system including a server adapted to run a server application, a message router communicating with the server, a plurality of protocol gateways communicating with the message routers, and a network adapted to couple the server and the protocol gateways to client devices, comprising:

[a] generating said alert with said server application, said alert including customer information;

[b] sending said alert to said message router;

[c] *retrieving a station ID of said client device from said customer information previously stored within said message router;*²

¹ Our decision will make reference to Appellants' Appeal Brief ("App. Br.," filed June 20, 2007) and Reply Brief ("Reply Br.," filed November 13, 2007), and the Examiner's Answer ("Ans.," mailed September 13, 2007).

² This limitation of independent claim 1 is similarly recited in independent claim 23 as "locating with said message router one or more station IDs from at least one of said customer ID and device ID previously stored within said message router," independent claim 37 as "retrieving a station ID of said client device from said customer information previously stored within a message router," independent claim 49 as "means for retrieving a station ID of said client device from said customer information previously stored

[d] determining a communication type of said client device based on said station ID;

[e] selecting one or more of said plurality of protocol gateways based on said communication type; and

[f] forwarding said alert to said selected one or more of said plurality of protocol gateways;

[g] formatting said alert with said protocol gateway for said selected client device; and

[h] forwarding said formatted alert via said network to said selected client device.

The Examiner's Rejections

The Examiner rejected:

(i) Claims 1-6, 9, 12, 13, 23, 24, 29, and 36-42, 45, and 48-53 under 35 U.S.C. § 102(e) as being anticipated by Kung (US 6,826,173 B1) (Ans. 3-7);³

(ii) Claims 14-22 and 30-35 under 35 U.S.C. § 103(a) as being unpatentable over Kung in view of Archer (US 6,683,870 B1) (Ans. 7-11);

within a message router,” and independent claim 52 as “means for locating with said message router one or more station IDs from at least on[e] of said customer ID and device ID previously stored within said message router.”

³ The header of this rejection indicates that 36-53 are included as rejected, however we note that of this group only claims 36-42, 45, and 48-53 are rejected by Kung. Claims 43 and 44 were rejected under § 103(a) over the combination of Kung and Boyle (Ans. 11), and claims 46 and 47 were rejected under § 103(a) over the combination of Kung and Ramasubramani (Ans. 12). For the purpose of this appeal, we treat this as harmless error, and consider claims 43, 44, 46, and 47 to be rejected under § 103(a), and not § 102(e).

(iii) Claims 7, 8, 25, 26, 43, 44, 54, and 55 under 35 U.S.C. § 103(a) as being unpatentable over Kung in view of Boyle (US 6,138,158) (Ans. 11-12); and

(iv) Claims 10, 11, 27, 28, 46, and 47 under 35 U.S.C. § 103(a) as being unpatentable over Kung in view of Ramasubramani (US 6,507,589 B1) (Ans. 12).

Appellants' Contentions

Appellants contend, *inter alia*, that the Examiner erred in rejecting claims 1-55 for numerous reasons, including:⁴

(1) Kung fails to disclose (i) “customer information previously stored within said message router,” as recited in claim 1 and similarly recited in claims 37 and 49, and (ii) “customer ID and device ID previously stored within said message router,” as recited in claims 23 and 52 (App. Br. 5-8; Reply Br. 4-5);

(2) Kung’s IP central station 200 would not have been broadly, but reasonably construed as a router by persons of ordinary skill in the art because “router” is a term of art (Reply Br. 4);

(3) Kung shows a central router in Figure 2 as element 210 which is but one of many interconnected devices in IP central station 200 (App. Br. 7);

(4) Kung shows (in Figure 2) that the call manager 218 is an element distinct from the central router 210 (App. Br. 6); and

(5) Although Kung’s call manager 218 stores preference data, Kung’s

⁴ We recognize that Appellants’ arguments present additional issues; however, we were persuaded of error by the points of contention specifically highlighted herein and as such we do not reach the additional issues because these highlighted points are dispositive of the appeal.

central router 210 does not perform any type of storage (App. Br. 6). In short, the main contention is that the Examiner's position that the "message router" encompasses both Kung's IP central station 200 and call manager 218 is unreasonable.

Issue on Appeal

Did the Examiner err in rejecting claims 1-55 because Kung does not disclose a message router that stores *customer information, or customer ID and device ID*, as required by independent claims 1, 23, 37, 49, and 52?

ANALYSIS

We agree with the Appellants' above contentions that Kung fails to disclose limitation [c] of claim 1, "retrieving a station ID of said client device from said customer information previously stored within said message router," and the similarly recited limitations found in remaining independent claims 23, 37, 49, and 52.

Kung's IP central station 200 cannot be reasonably construed as a router in and of itself. Instead, the disclosed IP central station 200 is a network of interconnected devices, including, *inter alia*, a central router (e.g., Fig. 2, central router 210) and a distinct call manager (e.g., Fig. 2, call manager 218) that may incorporate a customer database (col. 13, ll. 9-26).

Therefore, we do not agree with the Examiner's finding that Kung's IP central station 200 shown in Figure 2 may be broadly, but reasonably, construed as a "message router" as claimed in independent claims 1, 23, 37, 49, and 52 (Ans. 13). Kung's Figure 2 does not disclose or show, nor do the portions of Kung cited by the Examiner (*see, e.g.*, col. 7, ll. 62-67 and col. 13, ll. 15-24) address the concept of, limitation [c] of claim 1 and the similar

message router limitations of claims 23, 37, 49, and 52.

We agree with Appellants that Kung's IP central station 200 shown in Figure 2 is not a router because the router is element 210, which is but one of many interconnected devices in the IP central station 200 (App. Br. 7). Moreover, Kung shows the call manager 218 is an element distinct from the central router 210 (App. Br. 6).

In view of the foregoing, we will not sustain the Examiner's anticipation rejection of claims 1-6, 9, 12, 13, 23, 24, 29, and 36-42, 45, and 48-53 because Kung does not disclose the message router storing customer information, or customer ID and device ID, as required by independent claims 1, 23, 37, 49, and 52. Since Archer, Boyle, and Ramasubramani fail to cure the deficiencies of Kung, we will also not sustain the Examiner's obviousness rejections of: (i) claims 14-22 and 30-35 over Kung and Archer; (ii) claims 7, 8, 25, 26, 43, 44, 54, and 55 over Kung and Boyle; and (iii) claims 10, 11, 27, 28, 46, and 47 over Kung and Ramasubramani.

CONCLUSIONS

(1) Kung does not disclose a message router that stores *customer information, or customer ID and device ID*, as required by independent claims 1, 23, 37, 49, and 52.

(2) Appellants have established that the Examiner erred in rejecting claims 1-6, 9, 12, 13, 23, 24, 29, and 36-42, 45, and 48-53 as being unpatentable under 35 U.S.C. § 102(e), and claims 7, 8, 10, 11, 14-22, 25-28, 30-35, 43, 44, 46, 47, 54, and 55 as being unpatentable under 35 U.S.C. § 103(a).

(3) On this record, claims 1-55 have not been shown to be

unpatentable.

DECISION

The Examiner's rejections of claims 1-55 are reversed.

REVERSED

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